

JUDGE CRAIG'S RULE RELATING TO CASH COLLATERAL AND FINANCING ORDERS

1. Motions. Except as provided herein and elsewhere in these Rules, all cash collateral and financing requests under 11 U.S.C. §§ 363 and 364 shall be heard by motion filed pursuant to Fed. R. Bankr. P. 2002, 4001 and 9014 ("Financing Motions").
 - a. Provisions to be Highlighted. All Financing Motions must (i) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below, (ii) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement, and (iii) state the justification for the inclusion of such provision:
 - i. Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the pre-petition secured creditors (i.e., clauses that secure pre-petition debt by post-petition assets in which the secured creditor would not otherwise have a security interest by virtue of its pre-petition security agreement or applicable law).
 - ii. Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, priority, perfection or amount of the secured creditor's pre-petition lien or debt, or the waiver or release of claims against the secured creditor or any other party (including avoiding power causes of action) without first giving parties-in-interest at least 75 days from the entry of the order and the creditors' committee, if formed, at least 60 days from the date of its formation to investigate such matters.
 - iii. Provisions that seek to waive whatever rights the estate may have under 11 U.S.C. § 506(c).
 - iv. Provisions that grant to the pre-petition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549.
 - v. Provisions that deem pre-petition debt to be post-petition debt or that use post-petition loans from a pre-petition secured creditor to pay part or all of the secured creditor's pre-petition debt.
 - vi. Provisions that provide disparate treatment for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor with respect to a professional fee carve-out.
 - vii. Provisions that prime any secured lien, without the consent of that lienor, or that waive the estate's right to seek to prime any lien under § 364(d) of the Bankruptcy Code.

- viii. Provisions that purport to grant automatic relief from the automatic stay upon the occurrence of an event of default, upon conversion to Chapter 7, or upon appointment of a trustee, without further application to and order of the Court.
 - b. All Financing Motions shall also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under 11 U.S.C. §§ 363 and 364).
2. Interim Relief. When Financing Motions are filed with the Court on or shortly after the date of the entry of the order for relief, the Court may grant interim relief on shortened notice. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the Court will not approve interim financing orders that include any of the provisions previously identified in subsection 1(a)(i) through 1(a)(viii) of this Rule.
 3. Final Orders. A final order shall be entered only after notice and a hearing pursuant to Fed. R. Bankr. P. 4001. Ordinarily, the final hearing shall be held at least ten (10) days following the organizational meeting of the creditors' committee contemplated by 11 U.S.C. § 1102.